PROPOSED ADOPTION OF A "DECLARATION" CLARIFYING AND EXTENDING THE PROVISIONS OF THE "CODE OF ETHICS"

By **FRANCIS HEMMING,** C.M.G., C.B.E.
(*Secretary to the International Commission on Zoological Nomenclature*)

(Commission Reference : Z.N.(S.) 763)

The purpose of the present paper is to place before the International Commission on Zoological Nomenclature certain considerations relating to the wording and scope of the "Code of Ethics" and to suggest the adoption of a *Declaration* clarifying and in one respect extending the provisions of that Code.

I. HISTORICAL BACKGROUND

2. Before setting out the points on which it is suggested that further action is necessary, it may be convenient briefly to recall the origin and purpose of the "Code of Ethics" and its subsequent history. The precise circumstances which led up to the adoption of the Code are not known and cannot now be ascertained, for the papers relating to this matter were included among that portion of the records of the Commission which owing to storage difficulties were destroyed in 1931. All that is known is that at its Session held at Monaco in 1913 the International Commission adopted a Resolution in which the "Code of Ethics" was propounded. The Commission's Resolution on this subject was embodied in its Report to, and was approved by, the Ninth International Congress of Zoology. Thereafter the "Code of Ethics" was published with all editions of the *Règles*, although it was not formally a part of those *Règles*. When in 1943 the "Declarations" Series was inaugurated, the "Code of Ethics" was embodied in *Declaration* 1 (1943, *Ops. Decls. int. Comm. zool. Nomencl.* **1**(A) : 1—6).

3. In 1935 the Commission received from Professor Dr. Eduard Handschin, then President of the Schweizerische entomologische Gesellschaft, a proposal prepared by the Verein Entomologia Zurich that certain specified action should be taken by the International Commission in any case where it was satisfied that a given author had repeatedly and deliberately violated the "Code of Ethics". Particulars of an individual case which, in the opinion of the two Societies, fell in the above class were furnished in the documents then submitted to the Commission. This matter was considered by the Commission at its Session held at Lisbon in September 1935. In the discussion which then ensued the view was unanimously expressed that the Commission was not equipped for undertaking disciplinary functions of the kind which had been suggested and that it was undesirable that it should be asked to undertake duties of this kind. At this meeting, in the absence through ill-health of Dr. C. W. Stiles, I was officiating as Acting Secretary to the Commission and it appeared to me that in recording the foregoing discussion it would not be appropriate to include particulars of the individual case cited in the application submitted in which, in the opinion of the applicant-societies, a particular zoologist had committed breaches of the Code of Ethics, having regard to the expressed unwillingness of the Commission to take individual cases into consideration. Accordingly, both in the Official Record of the Proceedings of the Commission at its Lisbon Session (1943, *Bull. zool. Nomencl.* **1** : 25) and in the *Declaration* (*Declaration* 12 published in 1944, *Ops. Decls. int. Comm. zool. Nomencl.* **2** : xvii—xxiv) embodying the decision then taken, all reference to this side of the question was deliberately omitted, the record being confined to a recital of the Resolution in which the Commission placed on record its considered opinion that the question whether the " Code of Ethics " had been duly complied with in any given case was not a matter on which it felt authorised to enter.

4. The text of the " Code of Ethics " as embodied in *Declaration* 1 and as clarified in *Declaration* 12 was examined in Paris in 1948 both by the International Commission on Zoological Nomenclature and by the Thirteenth International Congress of Zoology. As a result certain amendments, particulars of which are given in paragraph 6 below, were made in the text of *Declaration* 1, while as regards *Declaration* 12 greater precision was given to the provision prescribing that it was no part of the functions of the International Commission to exercise functions of a disciplinary character in relation to alleged breaches of the " Code of Ethics ". Subject to the amendments so adopted the Paris Congress decided that a provision embodying the " Code of Ethics " should be incorporated in the revised text of the *Règles* which it then agreed should be prepared. The provision which it was then decided to insert in the *Règles* was in the following terms (1950, *Bull. zool. Nomencl.* **4** : 167) :—

> When a worker notices that a generic or subgeneric name or a name of a species, subspecies or infra-subspecific form published as a new name by an author who is alive at the time of the foregoing discovery is invalid by reason of being a homonym and requires to be replaced, the author making such a discovery should notify the author by whom the name in question was published, and, before himself publishing a substitute name, should, so far as practicable, give the original author an opportunity of so doing, it being made clear that the observance of the foregoing provision is a matter to be left to the proper feelings of individual workers, it not being part of the duties of the International Commission on Zoological Nomenclature to investigate or pass judgment upon alleged contraventions of this provision.

II. Examination of certain aspects of the text of the " Code of Ethics "

5. Having placed the " Code of Ethics " in its historical setting, we are now in a position to examine certain aspects of the text of that Code which present features which appear to call for consideration. Two problems are involved. The first is concerned with the question of removing from the text a provision which, if strictly observed, might have the unintended result of seriously impeding the necessary correction of errors arising out of the publication of invalid homonyms. The second is concerned with the question of coverage. The intention of the authors of the Code was no more than to provide a means for discouraging irregular practices in the matter of the replacement of invalid homonyms, and the title " Code of Ethics " given to the resolution so adopted was much wider than the resolution itself. Now, however, that the " Code of Ethics " is, under the decision of the Paris Congress, to be incorporated in a special Article in the revised text of the *Règles* it would be illogical to leave that provision in its present incomplete and unbalanced state. These matters are considered separately below.

(a) Proposed removal of an unduly restrictive provision from the portion of the " Code of Ethics " relating to the replacement of invalid homonyms

6. In the form in which it originally read, an author discovering that a given name was an invalid junior homonym of another name was enjoined under the " Code of Ethics " to give the author of the invalid name " ample opportunity " himself to publish a valid substitute name. Nothing was said in the resolution as what should be done if the author discovering the condition of homonymy between the two names was unable to get into touch with the author of the invalid name nor was any indication given as to what should be regarded as an " ample opportunity " for the purpose of compliance with the " Code ". As will be seen from the text of the decision quoted in paragraph 4 above, an attempt was made in Paris to deal with both of these points, as regards the former by inserting the words " so far as practicable " and as regards the latter by deleting the word " ample " before the word " opportunity ".

7. While the drafting changes adopted by the Paris Congress undoubtedly constitute an improvement on the original text, neither, in my opinion, is fully satisfactory. As regards the first, it is only in a minority of cases that an indication of the addresses of the authors of papers are given in serial publications and it is often very difficult to ascertain the address of the author of a paper in a serial published in some foreign country or even to be certain whether the author is still alive. Moreover, in existing world conditions, it is not always possible to communicate with zoologists resident in particular countries or, if one does write to them, to be confident that one's letter is duly delivered. Of these difficulties the first is relevant to the question of making a notification

under the " Code of Ethics ", the second, to the question of the amount of time which should be regarded as constituting an " opportunity " to the author of an invalid name himself to replace it.

8. In view of the fact that we are here concerned with a provision, non-compliance with which lays an author open to the stigma of having offended against professional etiquette, it seems important that the wording of the provision should be such as expressly to absolve from blame an author who publishes a substitute name for an invalid name published by another author if, after making reasonable efforts, he finds it impossible (a) to ascertain whether the author concerned is alive—this being a relevant factor in that the fact that a given name is an invalid homonym may often not be detected until long after the publication of the paper containing the name in question, or (b), if that author is alive, to communicate with him. It is accordingly suggested in the revised text submitted in paragraph 13 below that words dealing with this matter expressly should be substituted for the words " so far as practicable " inserted in the " Code " by the Paris Congress.

9. The existing difficulties in regard to the interpretation of the expression " opportunity " were brought forward vigorously in the following passage included in a letter primarily concerned with another subject which was addressed to the Office of the Commission on 17th April 1953 by the late Professor Z. P. Metcalf (*North Carolina State College of Agriculture and Engineering*, *University of North Carolina*, *Raleigh*, *North Carolina*, *U.S.A.*) :—

> While I agree with the general purport of the Code of Ethics, in regard to publishing new names to take the place of preoccupied names, there is another side to this situation. When you write to an author three or more times and he makes no reply or when he says he is going to publish a new name for the preoccupied name in the next number of a journal and then three or six years later, having forgotten his previous promise, repeats the same promise, courtesy ceases to be a virtue.

10. The difficulties discussed above are more likely to confront the compilers of large catalogues than any other class of zoologist and it may be confidently concluded that it was as the author of the *General Catalogue of the Hemiptera* that Professor Metcalf had encountered the difficulties in applying the " Code of Ethics " described in the letter quoted above. The point which he makes is, I consider, a valid one and I suggest that it should be met by the insertion in the " Code of Ethics " of a specified period which, after having made the prescribed notification, an author should be required to wait before himself publishing a substitute name for the invalid homonym in question. It is suggested that the period so to be specified should be " one year ". Even in this case there should, however, in equity be a safeguard exonerating from blame an author who publishes a replacement name for some other author's invalid name where this is necessary in order to save the author concerned from being forced to employ in a book or paper already in preparation a name which he has ascertained to be invalid.

(b) Proposed extension of the " Code of Ethics " to include a condemnation of the publication of a name for a new taxon when it is known that another author has arranged to publish a name for the taxon concerned

11. In its present form the " Code of Ethics " contains a condemnation only of the publication of a substitute name without giving the author of the invalid name a chance himself to publish a valid name. Such practices, though reprehensible, are not, however, by any means the most serious of those which it would be reasonable to expect to see condemned in a " Code of Ethics ". In particular, it seems very anomalous that the " Code " does not condemn the publication of a name for a new species by an author when he knows—or has reasonable ground for believing—that another author has already arranged to publish a name for that species. Fortunately, cases of this kind are rare but they do nevertheless occur from time to time and it would seem appropriate that a condemnation of them should be included in the " Code of Ethics " at a time when that " Code " is incorporated into the *Règles*.

(c) Responsibilities of editors in relation to the observance of the " Code of Ethics "

12. In the case of papers containing new names published in serial publications the editor of the serial would not normally himself possess the detailed knowledge required to enable him to satisfy himself that papers published in the serial for which he was responsible did not contain any breaches of the " Code of Ethics ". It seems reasonable therefore that responsibility for the observance of the " Code " should rest with the author of a paper and that responsibility in this matter should not be imposed upon editors, subject to the condition that no editor should wittingly publish a paper which to his own knowledge contained a breach of the " Code of Ethics ".

III. Recommendation

13. For the reasons set out above it is suggested for consideration that the International Commission should render a *Declaration* substituting for the existing text of the " Code of Ethics " the following revised text in which have been embodied the amendments suggested in paragraphs 7 and 9 above and the extensions suggested in paragraphs 10 and 11 :—

Suggested Revised text of the " Code of Ethics "

(1) The following precepts in connection with the procedure to be observed by authors publishing zoological names form collectively a " Code of Ethics " and any wilful failure to observe these precepts constitutes a breach of professional etiquette :—

(a) An author should not publish a name for a new taxon if he knows, or has reasonable ground for believing, that another author has already arranged to publish a name for that taxon.

(b) An author should not publish a name in replacement of an invalid homonym previously published by another author during the lifetime of that author in any case where he is able to ascertain that author's address and where postal and other conditions make it possible to communicate with that author until :—

(i) he has notified the author concerned that the name in question is an invalid homonym and requires replacement ;

(ii) he has allowed a period of one year to elapse after the despatch of the foregoing notification in order to enable the original author himself to replace the invalid name, save where a delay of so long a period would make it necessary for the author by whom the condition of homonymy had been discovered to employ the invalid name in a work to be published within that period.

(2) Editors and others responsible for the publication of zoological papers should avoid publishing any paper which to their knowledge contains a breach of the foregoing precepts.

(3) The observance of the " Code of Ethics " is a matter for the proper feelings of individual zoologists and the International Commission on Zoological Nomenclature is not authorised or empowered to investigate, or pass judgment upon alleged breaches of its provisions.